

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.MC.No. 3038 of 2007()

CC.889/2005 of ADDL.SESIONS COURT,-I, MAVELIKKARA
.....

PETITIONER: ACCUSED:

MADHU @ JOY,
SALU NIVAS (TC.7/271) OLD, ANCHAMAD HARIJAN COLONY
V.K.P. NAGAR, KANJIRAMPARA POST OFFICE,
SASTHAMANGALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. APPUKUTTAN, S/O. KRISHNAN,
MANNOMKARA THEKKATHIL HOUSE, PUNNAMOODU,
MAVELIKKARA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3038 of 2007

Dated this the 3rd day of October 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. On an earlier occasion, warrant of arrest was issued against the petitioner and he was constrained to remain in custody for the period - 17/2/2007 to 12/3/2007, it is submitted. The learned Magistrate had directed the petitioner to appear before Lok Adalath. The petitioner did not appear before Lok Adalath. Warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence before the Lok Adalath was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned

Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 12/10/2007. In the meantime, the petitioner must surrender before the learned Magistrate and apply for regular bail.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007